

REMARKS

This Amendment is submitted in response to the non-final Office Action mailed on May 21, 2004. Specification and Drawings have been corrected.

Claims 1, 2 and 4 have been amended. Claim 3 is combined with claim 1 and therefore cancelled as dependent claim. In view of the foregoing amendments, as well as the following remarks, Applicant respectfully submits that this application is in complete condition for allowance and requests reconsideration of the application in this regard.

Objection to the Specification

The specification stands objected to because of an error. Applicant has amended the specification to address the error that the Examiner noted. Applicant therefore requests that the objection to the specification be withdrawn.

Objection to the Drawings under 37 CFR 1.83(a).

Fig. 5 in the Drawings has been corrected to address the objection by the Examiner. Applicant therefore requests that the objection to the Drawings be withdrawn.

Rejections of Claims Under 35 U.S.C. § 102

Claims 1-3, 6 stand rejected under 35 U.S.C. §102(b) as being anticipated by Jang (U.S.5645350). Claim 1 is the independent claim from among these rejected claims. The Examiner contends that Jang shows all the elements of the rejected claims. Applicant respectfully disagrees for the reasons set forth below.

The Jang Rejection

Claim 1, as amended, recites a probe that has the inner surface and the outer surface, while the outer surface has at least one cavity. Jang does not disclose or suggest

such a probe. According to the Jang specification, item 4 is not an outer surface, but an internal "dust-proof device" (col. 2, line 7). What Jang calls "probe" 11 (see Fig. 3 of Jang) is the inner structure of the device and by no means is an equivalent to the probe of our invention. Our probe 5, which is the subject of this invention, by its function and relation to other components is an equivalent to Jang's "front housing portion 15" (Fig. 3 and col. 2, line 1 of Jang) and not at all to Jang's "probe" 11. No cavity, indentation or any depression of the kind on Jang's "front housing portion 15" is shown, described or anticipated.

Nevertheless, Applicant amends Claim 2 by adding word "thin" and identifying part "ridge" to further differentiate from Jang. Ground for amendment can be found on page 2 line 9, page 4 lines 9 - 12 and Fig. 4. Therefore, Applicant respectfully requests that this rejection be withdrawn. Because claims 2, 4 and 6 depend from independent claim 1, Applicant submits that those claims are also allowable as amended for at least the same reason.

The Fukura et al. Rejection

Claims 1-2, 5, 7-8 stands rejected under 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 6109782 (Fukura et al.). The Examiner contends that Fukura et al. shows all the elements of the rejected claim. Applicant respectfully disagrees for the reasons set forth below.

Rejected claims recite forming indentations (cavities) on the outer surface of a medical probe in order to minimize heat transfer from the patient's body to the inner structures of the probe. In our invention, the cavities are positioned outside, thus being adjacent to the patient's skin. Fukura's probe 20 and our probe 5 are the functional equivalents. What Fukura refers to as "heat-releasing portion 32" is an internal component

adjacent to the inner surface of probe 20 (Fukura's Fig. 2) by means of "heat insulating space 38". Contrary, our claim 1 as amended and claim 7 recite cavities formed on the outer surface of the probe. To further differentiate from Fukura, Applicant amends Claim 8 by adding word "thin". Ground for amendment can be found on Page 2 line 9, page 4 line 12 and Fig. 4.

The fundamental difference between our invention and these of Fukura and Jang is in a position of a heat insulating space (cavity). Prior art teaches a positioning of such space internally to the probe, while we teach a positioning to be external to the probe, that is adjacent to the patient's body surface as opposed to the internal components of the probe. For at least these reasons, Applicant respectfully requests that this rejection be withdrawn.

Rejections of Claims Under 35 U.S.C. § 103

Jang

The Examiner contends that Jang discloses the device that is similar to claimed by the Applicant. Applicant respectfully disagrees for the reasons set forth above. Since Jang doesn't teach position of cavities on outer surface of a probe, rejection under 35 U.S.C. § 103 is not applicable herewith. Therefore, one of the basic requirements of a *prima facie* case of obviousness is missing. Therefore, Applicant submits that claim 4 as amended is patentable and requests that the rejection be withdrawn.

Conclusion

Applicant has made a *bona fide* effort to respond to each and every requirement set forth in the Office Action. In the event that any issues remain outstanding, the Examiner is invited to contact the undersigned to expedite issuance of this application.

Applicant do not believe fees are due in connection with filing this communication..

Respectfully submitted,

A handwritten signature in dark ink, appearing to read 'Jacob Fraden', is written over a horizontal line.

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